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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,582	01/21/2004	Marshall A. Klingensmith	370054-00017	3473

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INTELLECTUAL PROPERTY
ALCOA TECHNICAL CENTER, BUILDING C
100 TECHNICAL DRIVE
ALCOA CENTER, PA 15069-0001

EXAMINER

KASTLER, SCOTT R

ART UNIT	PAPER NUMBER
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1742

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/761,582

Applicant(s)

KLINGENSMITH ET AL.

Examiner

Scott Kastler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-38 is/are pending in the application.
- 4a) Of the above claim(s) 20-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

This application contains claims 20-22 drawn to an invention nonelected with traverse in the response filed 10/27/2006. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 4-9 and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Nedic.

Nedic teaches a fill tube assembly comprising a fill tube (52) in the form of a tubular member with a radially extending flange (58) at a mold engaging end, and a clamping assembly to maintain a leakproof seal between the mold and tube, where the clamping assembly is made to accommodate dimensional variations (see col. 2 lines 55-60 for example) and the clamping assembly includes a gasket (72) between the flange and mold (since the instant claims do not require that the gasket actually contact the flange), an annular load ring (10), an annular clamping plate (26) engaging the load ring for pressing the fill tube into contact with the mold, and a plurality of fasteners extending through openings (32) into apertures in the mold, thereby

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narrowing a pre-load gap between the plate and mold, thereby showing all aspects of the above claims.

Claim Rejections - 35 USC § 103

Claims 23-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nedic.

Nedic teaches a fill tube assembly comprising a fill tube (52) in the form of a tubular member with a radially extending flange (58) at a mold engaging end, and a clamping assembly to maintain a leakproof seal between the mold and tube, where the clamping assembly is made to accommodate dimensional variations (see col. 2 lines 55-60 for example) and the clamping assembly includes a gasket (72) between the flange and mold, an annular load ring (10), an annular clamping plate (26) engaging the load ring for pressing the fill tube into contact with the mold, and a plurality of fasteners extending through openings (32) into apertures in the mold, thereby narrowing a pre-load gap between the plate and mold, thereby showing all aspects of the above claims except the provision that the flange (58) be of a tapered shape at least on its non-mold engaging face or the location of the gasket between the tapered flange of the second end and the casting mold. However, the flange shape and arrangements of Nedic operate in substantially the same manner (allowing the use of a clamping member to engage a fill tube with a casting mold) with substantially the same results (allowing dimensional variations during the clamping, see again col. 2 lines 55-60). Nedic also does not restrict the shape of the flange, as long as the clamping member can effectively engage the fill tube (the claims of Nedic allow for any desired flange configuration). It has been well settled that where no new or unexpected

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result is shown to arise therefrom, motivation to alter the shape or configuration of a component shown by the applied prior art would have been a modification obvious to one of ordinary skill in the art at the time the invention was made. See MPEP 2144.04 IV B. In the instant case, as long as the flange of the fill tube allows for dimensional variation, as required by Nedic, and since the claims of Nedic allow for various flange configurations, motivation to employ any desired equally useful flange configuration for the fill tube flange of Nedic would have been a modification obvious to one of ordinary skill in the art at the time the invention was made. With respect to the gasket location, again the gasket (70) of Nedic operates in substantially the same manner for substantially the same purpose as the instantly claimed gasket (to prevent molten metal leakage) Nedic also recites that the gasket should be located between an upper portion of the fill tube and a sealing surface of the mold housing (see claim 10 of Nedic for example) which includes the instantly recited gasket location. It has been well settled that motivation to shift the location of a component (the gasket) to another, equally useful location on an apparatus would also have been a modification obvious to one of ordinary skill in the art at the time the invention was made. See MPEP 2144.04 VI C. In the instant case, motivation to shift the location of the gasket of claim 10 of Nedic to the instantly recited location, which is also included in the range of acceptable gasket locations of Nedic, would have been a modification obvious to one of ordinary skill in the art at the time the invention was made.

Response to Arguments

Applicant's arguments, see the response filed on 3/12/2007, with respect to the rejections of the newly presented claims over the admitted prior art of the instant disclosure, the Chandley

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patents, Green et al and Redemske et al have been fully considered and are persuasive. These rejections have been withdrawn.

Applicant's arguments filed 3/12/2007 with respect to Nedic have been fully considered but they are not persuasive. Applicant's argument that Nedic requires a gasket between the load ring and the tapered section of the fill tube, thereby not allowing contact between the fill tube and the ring is not persuasive. Nedic in the claims for example includes embodiments in which either, a) no gasket is required, or b) the gasket is located in a manner consistent with that instantly claimed. A reference is valid prior art for all that it fairly discloses, and is not limited to its preferred embodiments. See MPEP 2123. In the instant case, Nedic is not limited to the preferred embodiment shown in figure 6, where a gasket (70) is located to prevent contact of the ring and tube, but is valid for its broader embodiments as well, such as that recited in claim 10, where the gasket is located in a manner including that instantly claimed, or even without any gasket at all, as recited in claims 1 and 5 of Nedic for example.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

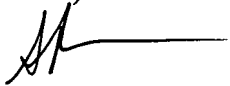
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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Kastler whose telephone number is (571) 272-1243. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on (571) 272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Scott Kastler
Primary Examiner
Art Unit 1742

sk